



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2009 REGULAR SESSION

HOUSE BILL NO. 99

CORRECTED

WEDNESDAY, FEBRUARY 25, 2009

The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT relating to charitable health care providers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔ Section 1. KRS 320.310 is amended to read as follows:

- (1) The board may refuse to issue, refuse to renew, limit or restrict, revoke, or suspend a license, may place on probation, or reprimand a licensee, may order restitution, may impose a fine not to exceed one thousand dollars (\$1,000) for each violation of this chapter or the corresponding administrative regulations, or may impose any combination of these penalties if it finds that an applicant or a licensee has:
 - (a) Engaged in any practice of fraud or deceit in obtaining or attempting to obtain a license;
 - (b) Been convicted of any^[a] felony or ***has been convicted of a*** misdemeanor involving sexual misconduct~~[moral turpitude]~~. A record of the conviction or a certified copy of the record shall be conclusive evidence;
 - (c) Chronic or persistent inebriety or addiction to a drug habit to an extent that continued practice is dangerous to patients or to the public safety;
 - (d) Been granted a license upon a mistake of material fact;
 - (e) Engaged in incompetence, as determined by the board;
 - (f) Practiced as an itinerant, peddled from door to door, established a temporary office, or practiced optometry outside of or away from his or her regular office or place of practice, ***except that the board may promulgate administrative regulations to authorize the practice of optometry outside of the licensee's regular office for a charitable purpose as defined by the board;***
 - (g) Employed, procured, induced, aided, or abetted any person, not holding a Kentucky license, to practice optometry or in practicing optometry;
 - (h) Used the title "doctor" or its abbreviation without further qualifying this title or abbreviation with the word "optometrist" or suitable words or letters

- 1 designating an optometry degree;
- 2 (i) Engaged in any conduct likely to deceive or defraud the public;
- 3 (j) Violated any order issued by the board;
- 4 (k) Had his or her license to practice optometry in any other jurisdiction revoked,
- 5 suspended, limited, placed on conditions of probation, or subjected to any
- 6 other disciplinary action by that jurisdiction's~~[the]~~ licensing authority~~{~~
- 7 thereof~~}~~;
- 8 (l) Prescribed any therapeutic agent in an amount that the optometrist knows, or
- 9 should know, is excessive under accepted and prevailing standards, or which
- 10 the optometrist knows, or has reason to know, will be used or is likely to be
- 11 used other than for an accepted therapeutic purpose;
- 12 (m) Developed a physical or mental disability, or other condition, which renders
- 13 the continued practice by the optometrist dangerous to patients or the public;
- 14 or
- 15 (n) Violated any statute under this chapter or administrative regulation
- 16 promulgated under those statutes.
- 17 (2) Nothing in this section shall prevent an optometrist from establishing branch offices
- 18 if each office contains minimum equipment as required by administrative regulation
- 19 of the board, ensures patient care as necessary, and has a Kentucky licensed
- 20 optometrist in charge of the office.
- 21 (3) Any licensee, permit holder, or certificate holder who is disciplined under this
- 22 chapter for a minor violation may request in writing that the board expunge the
- 23 minor violation from the licensee's, permit holder's, or certificate holder's
- 24 permanent record.
- 25 (a) The request for expungement may be filed no sooner than three (3) years after
- 26 the date on which the licensee, permit holder, or certificate holder has
- 27 completed disciplinary sanctions imposed and if the licensee, permit holder, or

1 certificate holder has not been disciplined for any subsequent violation of the
2 same nature within this period of time.

3 (b) No person may have his or her record expunged under this chapter more than
4 once.

5 The board shall promulgate administrative regulations under KRS Chapter 13A to
6 establish violations which are minor violations under this subsection. A violation shall be
7 deemed a minor violation if it does not demonstrate a serious inability to practice the
8 profession; adversely affect the public health, safety or welfare; or result in economic or
9 physical harm to a person, or create a significant threat of such harm.

10 ➔Section 2. KRS 311.560 is amended to read as follows:

11 (1) Except as provided in subsection (2) of this section, no person shall engage or
12 attempt to engage in the practice of medicine or osteopathy within this state, or
13 open, maintain, or occupy an office or place of business within this state for
14 engaging in practice, or in any manner announce or express a readiness to engage in
15 practice within this state, unless the person holds a valid and effective license or
16 permit issued by the board as hereinafter provided.

17 (2) The provisions of subsection (1) of this section shall not apply to:

18 (a) Commissioned medical officers of the Armed Forces of the United States, or
19 medical officers of the United States Public Health Service, the United States
20 Veterans Administration, and other agencies of the government of the United
21 States of America, while said persons are engaged in the performance, within
22 this state, of their official duties under federal laws;

23 (b) 1. Persons who, being nonresidents of Kentucky and lawfully licensed to
24 practice medicine or osteopathy in their states of actual residence,
25 infrequently engage in the practice of medicine or osteopathy within this
26 state, when called to see or attend particular patients in consultation and
27 association with a physician licensed pursuant to this chapter; or

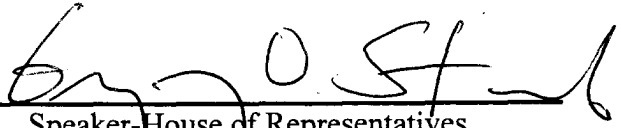
1 2. Persons who, being current participants in a medical residency program
2 outside of Kentucky and lawfully licensed to practice medicine or
3 osteopathy in the states of their medical residency programs, who
4 participate in a temporary residency rotation of no more than sixty (60)
5 days at a hospital in this Commonwealth. All persons who participate in
6 a temporary residency rotation under this paragraph shall register with
7 the board at no cost, on forms provided by the board, and shall be
8 subject to the jurisdiction of the board for so long as they participate in
9 the residency rotation. Persons who wish to participate in a second or
10 subsequent temporary residency rotation under this paragraph shall seek
11 advance approval of the board;

12 (c) Graduates of medical or osteopathic schools approved by the board, while
13 engaged in performing supervised internship or first-year postgraduate
14 training approved by the board at hospitals in this state. All first-year
15 postgraduate trainees shall register with the board at no cost, on forms
16 provided by the board. No first-year postgraduate trainee shall violate the
17 provisions of KRS 311.595 or KRS 311.597, and any first-year postgraduate
18 trainee who is released or discharged from a training program for a reason that
19 falls within KRS 311.595 or 311.597 shall be reported by the program director
20 to the board. A residency physician who participates in a temporary residency
21 rotation under paragraph (b) of this subsection shall not be required to obtain a
22 license under KRS 311.530 to 311.620;


23 (d) Physicians employed by a sports entity visiting Kentucky for a specific
24 sporting event when the physician holds an active medical or osteopathic
25 license in another state and limits the practice of medicine in Kentucky to
26 medical treatment of the members, coaches, and staff of the sports entity that
27 employs the physician; or

(e) Persons who are nonresidents of Kentucky and licensed to practice medicine or osteopathy in their states of residence, and are providing medical services as a charitable health care provider in Kentucky through a nonprofit, all-volunteer sponsoring organization as provided for under KRS 216.940 to 216.945, after confirming to the board that their licenses are currently in good standing in their states of residence and having been issued a written waiver by the board to provide these services during the specific period stated in the written waiver~~[Volunteer health practitioners providing services under KRS 39A.350 to 39A.366].~~


➔Section 3. Whereas the delivery of optometric services for charitable purposes is important to the health and well-being of children and families in the Commonwealth and a needless delay in the implementation of this Act impedes delivery of that service, an emergency is declared to exist, and Section 1 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.



Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date March 11, 2009